



Reprinted
February 25, 2004

ENGROSSED HOUSE BILL No. 1300

DIGEST OF HB 1300 (Updated February 24, 2004 4:00 pm - DI 106)

Citations Affected: IC 12-26; IC 35-36.

Synopsis: Insanity defense. Requires notice to be given to certain persons before a defendant who was found not responsible for a crime by reason of insanity and committed to a mental health facility: (1) is allowed outside the facility while not restrained and in custody; (2) is given a new security classification; (3) is transferred to another facility; or (4) is discharged. Provides for the provision of competency restoration services by the division of mental health and addiction or by a third party. Requires the superintendent of certain facilities to file periodic reports with the court concerning committed individuals, and to notify the court and other individuals as soon as practicable if the committed individual escapes, and within 10 days if the individual is transferred or allowed outside the facility without supervision. Provides that a defendant who interposes a defense of insanity may not introduce evidence from a medical witness with whom the defendant cooperated unless: (1) after being ordered to do so by the court, the defendant cooperates with medical witnesses appointed by the court; or (2) the defendant shows by a preponderance of the evidence that the defendant's failure to cooperate with medical witnesses appointed by the court was caused by the defendant's mental illness.

Effective: July 1, 2004.

Bottorff, Thomas

(SENATE SPONSORS — LONG, BRODEN, SIPES)

January 15, 2004, read first time and referred to Committee on Courts and Criminal Code.
January 29, 2004, reported — Do Pass.
February 4, 2004, read second time, amended, ordered engrossed.
February 5, 2004, engrossed. Read third time, passed. Yeas 93, nays 1.

SENATE ACTION

February 9, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.
February 19, 2004, amended, reported favorably — Do Pass.
February 24, 2004, read second time, amended, ordered engrossed.

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EH 1300—LS 6704/DI 69+



Reprinted
February 25, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1300

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-26-7-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does
3 not apply to the commitment of an individual if the individual has
4 previously been committed under IC 12-26-6.
5 (b) A proceeding for the commitment of an individual who appears
6 to be suffering from a chronic mental illness may be begun by filing
7 with a court having jurisdiction a written petition by any of the
8 following:
9 (1) A health officer.
10 (2) A police officer.
11 (3) A friend of the individual.
12 (4) A relative of the individual.
13 (5) The spouse of the individual.
14 (6) A guardian of the individual.
15 (7) The superintendent of a facility where the individual is
16 present.
17 (8) A prosecuting attorney in accordance with IC 35-36-2-4.

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(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 2. IC 12-26-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

- (1) The mental condition of the individual.
- (2) Whether the individual is dangerous or gravely disabled.
- (3) Whether the individual:
 - (A) needs to remain in the facility; or
 - (B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 **or as provided in this section.**

(c) If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:

- (1) file with the court the report described in subsection (a) every six (6) months, or more often if directed by the court; and**
- (2) notify the court, the petitioner, and any other person or persons designated by the court under this section:**

(A) at least ten (10) days before, or as soon as practicable in case of an emergency when:

- (i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;**
- (ii) the committed individual is transferred to another facility and the location of that facility;**
- (iii) the committed individual is discharged or the individual's commitment is otherwise terminated.**

(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive

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the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

- (1) an individual or individuals described in subsection (d); or
- (2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age or otherwise incapable of receiving or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

- (1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:
 - (A) The petitioner who filed the petition under IC 35-36-2-4.
 - (B) Any other person designated by the court.
- (2) The notice requirements set forth in this section.

SECTION 3. IC 12-26-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 17. Committed Individuals Found Not Responsible by Reason of Insanity

Sec. 1. If a court orders an individual to be committed under IC 35-36-2-4 and this article following a verdict of not responsible by reason of insanity at the time of the crime, the superintendent of the facility to which the individual is committed or the attending physician shall provide written notice to the prosecuting attorney who filed the petition under IC 35-36-2-4 and to any other person designated by the court:

- (1) at least twenty (20) days before:
 - (A) the committed individual is allowed outside the facility or grounds of the facility while the individual is not restrained and in custody;
 - (B) the security classification of the committed individual is changed;
 - (C) the committed individual is transferred to another facility; or
 - (D) the committed individual is discharged or the individual's commitment is otherwise terminated; and
- (2) as soon as practicable after the committed individual

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escapes.

Sec. 2. A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The prosecuting attorney who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in section 1 of this chapter.

Sec. 3. If an individual is committed to a facility by a court as described in section 1 of this chapter, the superintendent of the facility or the attending physician shall forward a copy of the review of the committed individual's care and treatment that is required to be filed with the court under IC 12-26-15-1 to the following:

(1) The prosecuting attorney who filed the petition under IC 35-36-2-4.

(2) Any other person designated by the court.

Sec. 4. If an individual who is committed to a facility by a court as described in section 1 of this chapter was on trial for committing a crime under IC 35-42, any notices, documents, or other information provided under this chapter to the prosecuting attorney who filed the petition under IC 35-36-2-4 may be distributed by the prosecuting attorney to any of the following:

(1) The victim of the crime.

(2) The family of the victim.

SECTION 4. IC 35-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) At the trial of a criminal case in which the defendant intends to interpose the defense of insanity, evidence may be introduced to prove the defendant's sanity or insanity at the time at which the defendant is alleged to have committed the offense charged in the indictment or information.

(b) When notice of an insanity defense is filed, the court shall appoint two (2) or three (3) competent disinterested psychiatrists, psychologists endorsed by the state psychology board as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, to examine the defendant and to testify at the trial. This testimony shall follow the presentation of the evidence for the prosecution and for the defense, including testimony of any medical experts employed by the state or by the defense.

(c) If a defendant does not adequately communicate, participate,

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1 and cooperate with the medical witnesses appointed by the court,
 2 after being ordered to do so by the court, the defendant may not
 3 present as evidence the testimony of any other medical witness:

4 (1) with whom the defendant adequately communicated,
 5 participated, and cooperated; and

6 (2) whose opinion is based upon examinations of the
 7 defendant;

8 unless the defendant shows by a preponderance of the evidence
 9 that the defendant's failure to communicate, participate, or
 10 cooperate with the medical witnesses appointed by the court was
 11 caused by the defendant's mental illness.

12 (d) The medical witnesses appointed by the court may be
 13 cross-examined by both the prosecution and the defense, and each side
 14 may introduce evidence in rebuttal to the testimony of such a medical
 15 witness.

16 SECTION 5. IC 35-36-2-4 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Whenever a
 18 defendant is found not responsible by reason of insanity at the time of
 19 the crime, the prosecuting attorney shall file a written petition with the
 20 court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed
 21 under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing
 22 under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall
 23 hold a commitment hearing under IC 12-26-7.

24 (b) The hearing shall be conducted at the earliest opportunity after
 25 the finding of not responsible by reason of insanity at the time of the
 26 crime, and the defendant shall be detained in custody until the
 27 completion of the hearing. The court may take judicial notice of
 28 evidence introduced during the trial of the defendant and may call the
 29 physicians appointed by the court to testify concerning whether the
 30 defendant is currently mentally ill and dangerous or currently mentally
 31 ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and
 32 ~~IC 12-7-2-130(a)(1)~~. **IC 12-7-2-130(1)**. The court may subpoena any
 33 other persons with knowledge concerning the issues presented at the
 34 hearing.

35 (c) The defendant has all the rights provided by the provisions of
 36 IC 12-26 under which the petition against the defendant was filed. The
 37 prosecuting attorney may cross-examine the witnesses and present
 38 relevant evidence concerning the issues presented at the hearing.

39 (d) **If a court orders an individual to be committed under**
 40 **IC 12-26-6 or IC 12-26-7 following a verdict of not responsible by**
 41 **reason of insanity at the time of the crime, the superintendent of**
 42 **the facility to which the individual is committed and the attending**

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1 **physician are subject to the requirements of IC 12-26-17.**

2 SECTION 6. IC 35-36-3-1, AS AMENDED BY P.L.215-2001,
3 SECTION 109, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final
5 submission of any criminal case to the court or the jury trying the case,
6 the court has reasonable grounds for believing that the defendant lacks
7 the ability to understand the proceedings and assist in the preparation
8 of ~~his~~ a defense, the court shall immediately fix a time for a hearing to
9 determine whether the defendant has that ability. The court shall
10 appoint two (2) or three (3) competent, disinterested:

11 (1) psychiatrists; or

12 (2) psychologists endorsed by the Indiana state board of
13 examiners in psychology as health service providers in
14 psychology. ~~or physicians;~~

15 At least one (1) of ~~whom~~ **the individuals appointed under this**
16 **subsection** must be a psychiatrist. ~~who~~ **However, none may be an**
17 **employee or a contractor of a state institution (as defined in**
18 **IC 12-7-2-184). The individuals who are appointed** shall examine
19 the defendant and testify at the hearing as to whether the defendant can
20 understand the proceedings and assist in the preparation of the
21 defendant's defense.

22 (b) At the hearing, other evidence relevant to whether the defendant
23 has the ability to understand the proceedings and assist in the
24 preparation of the defendant's defense may be introduced. If the court
25 finds that the defendant has the ability to understand the proceedings
26 and assist in the preparation of the defendant's defense, the trial shall
27 proceed. If the court finds that the defendant lacks this ability, it shall
28 delay or continue the trial and order the defendant committed to the
29 division of mental health and addiction. ~~to be confined by the division~~
30 ~~in an appropriate psychiatric institution.~~ **The division of mental health**
31 **and addiction shall provide competency restoration services or**
32 **enter into a contract for the provision of competency restoration**
33 **services by a third party in the:**

34 (1) location where the defendant currently resides; or

35 (2) least restrictive setting appropriate to the needs of the
36 defendant and the safety of the defendant and others.

37 **However, if the defendant is serving an unrelated executed**
38 **sentence in the department of correction at the time the defendant**
39 **is committed to the division of mental health and addiction under**
40 **this section, the division of mental health and addiction shall**
41 **provide competency restoration services or enter into a contract**
42 **for the provision of competency restoration services by a third**

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1 party at a department of correction facility agreed upon by the
 2 division of mental health and addiction or the third party
 3 contractor and the department of correction.

4 SECTION 7. IC 35-36-3-2, AS AMENDED BY P.L.215-2001,
 5 SECTION 110, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains
 7 the ability to understand the proceedings and assist in the preparation
 8 of the defendant's defense:

9 (1) the division of mental health and addiction, through the
 10 superintendent of the appropriate psychiatric institution,
 11 superintendent of the state institution (as defined in
 12 IC 12-7-2-184); or

13 (2) if the division of mental health and addiction entered into
 14 a contract for the provision of competency restoration
 15 services, the director or medical director of the third party
 16 contractor;

17 shall certify that fact to the proper court, which shall enter an order
 18 directing the sheriff to return the defendant. The court ~~may~~ **shall** enter
 19 such an order immediately after being sufficiently advised of the
 20 defendant's attainment of the ability to understand the proceedings and
 21 assist in the preparation of the defendant's defense. Upon the return to
 22 court of any defendant committed under section 1 of this chapter, the
 23 court shall hold the trial as if no delay or postponement had occurred.

24 SECTION 8. IC 35-36-3-3, AS AMENDED BY P.L.215-2001,
 25 SECTION 111, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

27 (1) a defendant's ~~admittance to a psychiatric institution;~~ the
 28 superintendent of the psychiatric institution admission to a state
 29 institution (as defined in IC 12-7-2-184); or

30 (2) the initiation of competency restoration services to a
 31 defendant by a third party contractor;

32 the superintendent of the state institution (as defined in
 33 IC 12-7-2-184) or the director or medical director of the third
 34 party contractor, if the division of mental health and addiction has
 35 entered into a contract for the provision of competency restoration
 36 services by a third party, shall certify to the proper court whether the
 37 defendant has a substantial probability of attaining the ability to
 38 understand the proceedings and assist in the preparation of the
 39 defendant's defense within the foreseeable future.

40 (b) If a substantial probability does not exist, the ~~division of mental~~
 41 ~~health and addiction state institution (as defined in IC 12-7-2-184)~~
 42 or the third party contractor shall initiate regular commitment

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proceedings under IC 12-26. If a substantial probability does exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(B) **initiation of competency restoration services by a third party contractor;**

whichever first occurs.

SECTION 9. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution; the division of mental health and addiction~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) **initiation of competency restoration services by a third party contractor;**

the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1300, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

DVORAK, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1300 be amended to read as follows:

Page 3, line 7, after "court," insert "**after being ordered to do so by the court,**".

(Reference is to HB 1300 as printed January 30, 2004.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1300, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

- (1) A health officer.
- (2) A police officer.
- (3) A friend of the individual.
- (4) A relative of the individual.
- (5) The spouse of the individual.
- (6) A guardian of the individual.
- (7) The superintendent of a facility where the individual is present.
- (8) A prosecuting attorney in accordance with IC 35-36-2-4.
- (9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.
- (10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4."**

Page 4, after line 7, begin a new paragraph and insert:

"SECTION 5. IC 35-36-3-1, AS AMENDED BY P.L.215-2001, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of his a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

- (1) psychiatrists; or**

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(2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology. ~~or physicians;~~

At least one (1) of ~~whom the individuals appointed under this subsection~~ must be a psychiatrist. ~~who~~ **However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed** shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. ~~to be confined by the division in an appropriate psychiatric institution. The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:~~

- (1) location where the defendant currently resides; or
- (2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction.

SECTION 6. IC 35-36-3-2, AS AMENDED BY P.L.215-2001, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense:

- (1) ~~the division of mental health and addiction, through the superintendent of the appropriate psychiatric institution;~~
superintendent of the state institution (as defined in

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IC 12-7-2-184); or

(2) if the division of mental health and addiction entered into a contract for the provision of competency restoration services, the director or medical director of the third party contractor;

shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court ~~may~~ **shall** enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 7. IC 35-36-3-3, AS AMENDED BY P.L.215-2001, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Within ninety (90) days after:

(1) a defendant's ~~admittance to a psychiatric institution; the superintendent of the psychiatric institution~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) the initiation of competency restoration services to a defendant by a third party contractor;

the superintendent of the state institution (as defined in IC 12-7-2-184) or the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or the third party contractor** shall initiate regular commitment proceedings under IC 12-26. If a substantial probability does exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(B) initiation of competency restoration services by a third

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party contractor;

whichever first occurs.

SECTION 8. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's admittance to a psychiatric institution, the division of mental health and addiction admission to a state institution (as defined in IC 12-7-2-184); or

(2) initiation of competency restoration services by a third party contractor;

the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26."

Page 3, line 14, delete "clear and convincing" and insert "**a preponderance of the**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1300 as reprinted February 5, 2004.)

LONG, Chairperson

Committee Vote: Yeas 7, Nays 3.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1300 be amended to read as follows:

Page 2, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 2. IC 12-26-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

- (1) The mental condition of the individual.
- (2) Whether the individual is dangerous or gravely disabled.
- (3) Whether the individual:
 - (A) needs to remain in the facility; or
 - (B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 or as provided in this section.

(c) **If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:**

- (1) file with the court the report described in subsection(a) every six (6) months, or more often if directed by the court; and**
- (2) notify the court, the petitioner, and any other person or persons designated by the court under this section:**

(A) at least ten (10) days before, or as soon as practicable in case of an emergency when:

- (i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;**
- (ii) the committed individual is transferred to another facility and the location of that facility;**
- (iii) the committed individual is discharged or the individual's commitment is otherwise terminated.**

(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed

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individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

- (1) an individual or individuals described in subsection (d); or
- (2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age or otherwise incapable of receiving or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The petitioner who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in this section."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1300 as printed February 20, 2004.)

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